

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

SEP 26 2001

GONZALO QUINONES

Plaintiff,

v.

LARRY G. MASSANARI,¹
Commissioner of Social Security Administration,

Defendant.

R. Sheri M. March
CLERK
BY dd DEP. CLERK

CIV 99-800 LH/KBM

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

When this case was originally filed in July 1999, Plaintiff was represented by counsel. Service on the defendant was not accomplished until October of that year. In January 2000, I permitted Plaintiff's attorney to withdraw and no other attorney has entered an appearance on his behalf. Because I was informed that Mr. Quinones is not fluent in English, the Clerk's Office has contacted Mr. Quinones each time I have entered an order in this case and translated the order in the Spanish language for him. As the attached docket sheet indicates, Plaintiff has failed to prosecute this matter despite many cautions of possible dismissal. Most recently, by Order entered August 3, 2001, I warned "Mr. Quinones [to] file a motion to reverse or remand no later than August 22, 2001, or this Court will recommend that this action be dismissed for lack of

¹ On March 29, 2001, Larry G. Massanari became the Acting Commissioner of Social Security. In accordance with FED. R. CIV. P. 25(d)(1), Mr. Massanari is substituted for Kenneth S. Apfel as the Defendant in this action.

prosecution." *See Doc. 20.* Yet again, no pleading has been submitted by Plaintiff. I regret that I have no alternative to recommending dismissal of this action without prejudice.

Wherefore,

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice for failure to prosecute.

IT IS FURTHER ORDERED that the Clerk of Court make arrangements as soon as possible for this Order to be read to Plaintiff in the Spanish language (phone number is 505-396-5016) and mailed to him at his last known address of P.O. Box 1963, Lovington, New Mexico, 88260.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 10 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636 (b)(1). **A party must file any objections with the Clerk of the District Court within the ten day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**



UNITED STATES MAGISTRATE JUDGE

Docket Report for: Quinones v. HHS

Case Number: 99cv00800

File Date	EOD	Num	Description	Ref
08/02/01	08/03/01	20	<u>ORDER</u> by Magistrate Judge Karen B. Molzen that pltf file a motion to reverse or remand no later than 8/22/01 or this Court will recommend that this action be dismissed for lack of prosecution; Clerk of Court make arrangements as soon as possible for this Order be read in Spanish (cc: all counsel*) (rd) (11k)	<u>dfs</u>
05/21/01	05/21/01	19	<u>ORDER</u> by Magistrate Judge Karen B. Molzen construing pltf's 4/27/01 letter as a request for counsel; requiring pltf to detail in writing his efforts to obtain counsel and requiring Clerk to make arrangements to read order to pltf in spanish as soon as possible (cc: all counsel*) (rd) (14k)	<u>dfs</u>
04/27/01	05/10/01	18	<u>NOTICE</u> (letter) to the Court (undated) by pltf Gonzalo Quinones; unable to retain counsel to represent him in this matter (js) (40k)	
03/08/01	03/09/01	17	<u>ORDER TO SHOW CAUSE</u> : by Magistrate Judge Karen B. Molzen why case should not be dismissed for lack of prosecution; Clerk to make arrangements as soon as possible to read this order to pltf in Spanish (cc: all counsel*) (rd) (10k)	<u>dfs</u>
10/12/00	10/12/00	16	<u>ORDER</u> by Magistrate Judge Karen B. Molzen briefing schedule filed: 10/12/00; mtn to remand due: 12/11/00; response due: 2/12/01; and reply due: 2/25/01 (cc: all counsel*) (kd) (9k)	<u>dfs</u>
10/10/00	10/10/00	15	<u>ANSWER</u> by deft [1-1] w/Administrative Record lodged in separate folder (kd) (50k) Re: <u>COMPLAINT</u> [1]	
10/10/00	04/04/01	-	<u>ADMINISTRATIVE TRANSCRIPT OF PROCEEDINGS</u> [15-1] lodged in separate file folder (pr)	
09/26/00	09/29/00	14	<u>ORDER</u> by District Judge C. LeRoy Hansen granting deft's motion to reopen the case [13-1] (cc: all counsel) (rd) Re: <u>MOTION to reopen the case</u> [13]	
09/08/00	09/11/00	13	<u>MOTION</u> by deft to reopen the case (rd) (31k) Re: <u>ORDER</u> [14]	
07/27/00	07/28/00	12	<u>RULE 58 FINAL JUDGMENT</u> : by District Judge C. LeRoy Hansen re motion to remand [8-1] remanding case to U.S. agency (cc: all counsel) (rd) (12k) Re: <u>MOTION to remand to the Commissioner for a rehearing</u> [8]	
07/27/00	07/28/00	11	<u>ORDER</u> by District Judge C. LeRoy Hansen granting deft's motion to remand to the Commissioner for a rehearing [8-1] (cc: all counsel) (rd) (13k) Re: <u>MOTION to remand to the Commissioner for a rehearing</u> [8]	
07/27/00	07/28/00	10	<u>ORDER</u> by Magistrate Judge Karen B. Molzen sua sponte that this Order	

			be read to pltf in Spanish and that pltf respond to deft's motion to remand by 7/7/00 (cc: all counsel) (rd) (25k)	
06/09/00	06/12/00	9	<u>ORDER</u> by Magistrate Judge Karen B. Molzen that Clerk of Court make arrangements to have this Order read to pltf in Spanish as soon as possible; pltf to respond to deft's motion to remand by 7/7/00 or Magistrate Judge will recommend to District Judge that motion be granted (Las Cruces Clerk's Office to arrange Spanish speaker) [8-1] (cc: all counsel*) (rd) (11k) Re: MOTION to remand to the Commissioner for a rehearing [8]	dfs
03/01/00	03/02/00	8	MOTION by deft [to remand to the Commissioner for a rehearing] (rd) Re: <u>RULE</u> remanding case to U.S. agency [12] <u>ORDER</u> [11] <u>ORDER</u> [9]	
01/25/00	01/26/00	7	ORDER by Magistrate Judge Karen B. Molzen granting motion to withdraw attorney Warren F. Reynolds [6-1] Attorney William Shoobridge will be entering appearance for Gonzalo Quinones (cc: all counsel by lc) (lc) Re: MOTION to withdraw attorney Warren F. Reynolds [6]	
01/10/00	01/10/00	6	MOTION by pltf [to withdraw attorney Warren F. Reynolds] (rd) Re: <u>ORDER</u> [7]	
11/01/99	11/02/99	5	CERTIFICATE (Affidavit) by pltf of service via certified mail to US Attorney of summons and complaint on 10/27/99 (rd)	
10/13/99	10/15/99	4	CERTIFICATE of service by pltf of Complaint and Summons to deft c/o US Atty and Atty General via certified mail on 10/8/99 (rd)	
10/06/99	10/06/99	3	CERTIFICATE (Affidavit) of service by pltf of complaint and summons via certified mail to General Counsel, SSA on 10/4/99 (rd)	
10/06/99	10/06/99	-	SUMMONS (2) issued as to deft c/o US Attorney and Attorney General on 10/6/99 (rd)	
07/22/99	07/22/99	2	<u>ORDER</u> by Judge C. LeRoy Hansen referring this matter to Magistrate Judge Karen B Molzen for recommended disposition (cc: all counsel, electronically) (jrm) (9k)	dfs
07/19/99	07/20/99	1	<u>COMPLAINT</u> (social security) (1 Summons(es) issued) (referred to Magistrate Judge Karen B. Molzen) (vv) (57k) Re: <u>ANSWER</u> [15]	
07/19/99	07/20/99	-	FILING FEE PAID: on 7/19/99 in the amount of \$150.00, receipt #: 116352. (vv)	

Key:

Symbol	Meaning
EOD	Entered On Docket date the document was docketed in the court
File Date	Date the document was filed with the court
Ref	reference column
dfs	digital file stamp
(#k)	file size in kilobytes